

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JULIO C. SOTO,
EDGAR ZAVALA-LOPEZ and
ALFREDO RODRIGUEZ, JR.,

Defendants.

8:05CR267

ORDER

This matter is before the court on the motion to continue by defendant Julio C. Soto (Soto) (Filing No. 29) and the motion to expand time by defendant Alfredo Rodriguez, Jr. (Rodriguez) (Filing No. 28). Both defendants seek an extension of the time in which to file pretrial motions in accordance with the progression order (Filing No. 11). Defendants' counsel represent that counsel for the government has no objection to the motion. Contingent upon each defendant filing **within seven days** an affidavit in accordance with paragraph 9 of the progression order whereby he consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act, the motions will be granted.

IT IS ORDERED:

1. Soto's and Rodriguez's motions for additional time in which to file pretrial motions (Filing Nos. 28 and 29) are granted.

2. Defendants are given until **on or before September 14, 2005**, in which to file pretrial motions pursuant to the progression order (Filing No. 11). The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendants in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **August 16, 2005 and September 15, 2005**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

3. The tentative setting of an evidentiary hearing for 1:30 p.m. on August 22, 2005, is **canceled** and will be re-scheduled in the event any pretrial motions are filed in accordance with this order.

DATED this 16th day of August, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge